

Process Servers, Court and Clerk's Office Information and Exchange Presentation

January 17, 2006
Minutes

Welcoming Remarks

- Michael Jeanes, Clerk of the Superior Court, welcomed the group to the meeting.

Continuing Education Requirements for Renewal

- Mr. Jeanes introduced Nancy Swetnam, Director of Certification and Licensing Division, from the Administrative Offices of the Supreme Court (AOC). Ms. Swetnam introduced Brenda Dominguez, her assistant. Ms. Swetnam provided a handout on the Private Process Server Continuing Education Requirements and provided a brief history of the Certification process. Effective January 1, 2003, the Court adopted changes to the code, §7-204, which eliminated the need for annual examinations for renewal purposes and established the Continuing Education Requirements: Ten Continuing Education (CE) hours per year – Renewals every three years. This was established to better align with national standards.

Ms. Swetnam informed the group that during the last three years, Presiding Judges have been "lenient" with regard to the 10-hours per year / 30 total hours at renewal requirements. She further explained now that all licenses have been cycled through (three years since implementation), that all renewal requirements will be strictly adhered to. Process Servers are required to obtain 10 hours each year and hold this information until your renewal date. Judges during their reviews could a) refuse to renew a license or b) impose disciplinary action. They may also ask for additional information before granting certification which may include fingerprinting, re-examination and background information.

Ms. Swetnam advised it is the responsibility of each process server to seek out and obtain the required educational hours. The AOC has established an approval process for acceptance of classes that has a 24 to 48-hour turn around timeframe in most instances. Once classes have been approved, they are posted on the AOC's website as approved.

(<http://www.supreme.state.az.us/cld.pdf/CE%20Opportunities.pdf>)

When a class has been pre-approved for one instance, it is approved for all and it is incorporated into the Website. Ms. Swetnam advised that classes related to operations of a business, such as 'Managing Employees', would not be an accredited class. NAPPS (National Association of Professional Process Servers) tapes are also available and have been accredited. (This information is available on the above listed link.) Hours cannot be carried over to meet a subsequent 3-year's renewal requirement. An example was provided where a process server was denied a Defensive Driving class, as it was being taken in compliance with a citation received and could not be approved for CE accreditation – hours cannot serve a dual purpose.

A question was posed as to the rights or due process if a renewal application is denied. Ms. Swetnam advised the entire hearing process is explained in Section "H" of §7-204. The link to this site is <http://www.supreme.state.az.us/orders/admcode/pdfcurrentcode/7-204.pdf>

If you need to contact Ms. Swetnam or Ms. Dominguez, please reach them via email through the AOC website at ProcServ@courts.az.gov or call 602-364-2378. It was commented, email is best to contact them.

E-File Update

- Mr. Jeanes provided an update on this standing item of the agenda. The Court and Clerk's Office have developed plans to expand the Civil Pilot to four more Judges; Dunevant, Hilliard, Katz and Schneider are targeted for February 1st. An Administrative Order making E-file mandatory in these Divisions is forthcoming. Additional training is being provided and by June 1st it is estimated that approximately

90% of the Civil Bench will be trained. Only Civil cases represented by counsel on both sides will be designated as E-file cases.

- Three vendors have been designed as E-file providers; eFiling.com, LexusNexus and Wiznet. Target date for commencement of their services is July 1, 2006.
- With regard to Criminal E-file, the County Attorney's Office and Public Defender are up and running on the Clerk's Office product created for Criminal case E-file. Additional expansion discussions include possible designation of the Southeast Adult facility as a mandatory Criminal E-file location.
- Mr. Jeanes reiterated that all of these Civil and Criminal expansions are in the proposal stages.

Justice Courts Information

- Mr. Dennis Metrick, Justice Court Operations Director, was introduced for presentation of Justice Court items.
 - Mr. Metrick provided a handout of all of the Justice Court's name changes, effective January 4th. Additionally, there were some boundary changes approved by the Board of Supervisor's in their December meeting, but all of the information is not yet available. Approximately 50% of the districts were affected. A process server mentioned this information is available on the Election Department's Website, however each map (23 individual districts) because of the detail, takes a long time to download. Mr. Metrick advised that the long-range plan is to "regionalize" all of the Justice Courts. One region is scheduled for the Downtown Justice Center (600 West Jackson – 1/2007), another for the Avondale area and a third in Mesa.
 - Lauri Thomas, Document Management Administrator, raised the item of interest on the agenda; On-line access to Justice Court Case Information. Mr. Metrick advised that the Justice Courts are in the process of converting to the Court's iCIS system. Approximately 50% of the Courts have been converted. The target date for full conversion is April 2006; on-line access for inquiry, as with Superior Court Docket, will be after that date. Plans also include public terminals at all of the Justice Court facilities. There was interest of the public terminals installed by Court Administration at the new Northeast facility and Linda Sandbloom from Family Court Administration volunteered to follow up on the intended use of the terminals currently housed at the facility. Process Servers have received conflicting information from staff at the facility.
 - Justices Courts also are planning an E-file pilot which will encompass the Encanto district (formerly Central Phoenix) with Forcible Detainers processed by large attorney firms. Mr. Metrick advised that traffic citations are being digitized and will also be available at some point in the future.
 - There was interest from the attendees regarding the use of depository boxes for the Justice Courts. Mr. Jeanes advised the group that there is one available at the Northeast Regional Center that currently houses three Justice Courts. However, he cautioned the runners to be sure they are using the correct depository box – one is for Superior Court matters and the other is for Justice Court matters. There have been some instances where Superior Court documents are being retrieved from the Justice Court's depository box. Mr. Metrick will re-visit this issue with the Justice Court staff at the new Northeast Regional Court.

Depository Box Procedures – Reminder

- Sheri Jaffe, Court Operations Manager (Northeast), was introduced for this item of the agenda. She reminded the process servers to file stamp the front of each page of each original document. Additionally, due to recent instances with power outages, if you see the date stamp has the incorrect date and time, try to provide the correct information before depositing into the box. Please make sure all fees are firmly affixed to the documents being filed. Instructions for proper use of the depository boxes are available on the Clerk's Web site at http://www.clerkofcourt.maricopa.gov/alternative_filing.asp
- At this time Mr. Jeanes asked the group for assistance with their clients that are reluctant to have the runners use the depository boxes. This has been mentioned in past meetings, and Mr. Jeanes would like to address their clients' concerns and asked that they be referred directly to him. The goal is to eliminate the long lines at the file counter areas at 5:00 p.m.

Court Administration Topics

- Linda Sandbloom, Family Court Navigator from Family Court Administration was introduced to address Court Administration topics.
 - ✓ Family Court Judicial Officers Assignments – All sites
 - Ms. Sandbloom provided a handout of the most recent Family Court Judicial Assignments.
 - ✓ New Family Court Rules Pertaining to Service of Documents
 - On January 1, 2006 many Family Court Rule changes became effective. Ms. Sandbloom provided a handout of those changes that affect the Service of Process – Rule 40.
 - Mr. Jeanes has been serving on this Committee where Judge Davis is the Chair. The Committee has already identified some changes that need to be addressed, and is soliciting comments from the public for improvement. Rule 40, regarding process, was modified to make service easier for the Pro Se litigants, but still expect compliance with the Rules. Mr. Jeanes advised the group that the Committee will continue its review of changes for at least the next two years, hence the importance of providing feedback.

Other Items

- Sheri Jaffe, Court Operations Manager, informed the group that the Clerk's Office has been receiving return copies of service documents from the Sheriff's Office because they were submitted without the Court order. The Sheriff's Office cannot take action on service documents that are not accompanied by an actual order – Orders of Protection and / or Injunctions Against Harassment. The Clerk's Office is required to submit these orders to the Sheriff's Office within 24-hours of receipt. Ms. Jaffe reminded the group, when submitting service documentation directly to the Sheriff's Office, be sure an order is included, or it will be returned to the Clerk's Office.
- Having no additional items, the meeting was adjourned at 1:10 p.m.

Note: Handouts provided at the meeting follow these minutes.

**PRIVATE PROCESS SERVER CONTINUING EDUCATION
REQUIREMENTS
RELEVANT SECTIONS OF §7-204: PRIVATE PROCESS SERVER**

**PRESENTED AT QUARTERLY MEETING OF THE CLERK OF THE SUPERIOR
COURT IN MARICOPA COUNTY**

F. Role and Responsibilities of Certificate Holders

7. Continuing Education. Certified private process servers shall complete ten hours of continuing education each twelve months and shall submit documentation of completion of this continuing education on a form approved by the director with the application for renewal of certification. Certified private process servers shall complete continuing education classes that are relevant to the work of a process server, pursuant to policies adopted by the director.

G. Renewal of Certification

3. Application. A certified private process server whose certificate is in good standing may renew by filing a completed certification application for renewal, paying all fees, providing two color photographs (two inches by two inches) and submitting documentation of completion of the required hours of continuing education pursuant to subsection F(7) of this code section. The applicant shall file the application with the clerk of the court in the county of residence of the applicant.
- ...
4. Additional Information. Before granting renewal of certification, the presiding judge may require additional information reasonably necessary to determine if the applicant continues to meet the qualifications specified by this code section. This may include fingerprinting, reexamination and background information.
5. If the presiding judge is satisfied that the applicant continues to meet all qualifications for certification, as specified in subsection E(2) of this code section, the presiding judge shall renew the certification of the applicant. The presiding judge may refuse to renew the certification of an applicant for any of the reasons specified in subsection E(5) of this code section. The presiding judge shall promptly notify all applicants granted renewal of certification.

E. Initial Certification.

2 Qualifications for Application. Any person if qualified pursuant to subsection E(2)(a) or (b) of this code section may apply for certification.

a Qualifications for Individual Certification. To become certified or eligible for certification an applicant shall meet the eligibility requirements and fulfill all the requirements of subsection E(2)(c)(1) through (7) of this code section . . .

...

5. Denial of Certification.

a. The presiding judge may refuse to certify an applicant if one or more of the following is found:

(10) The applicant has violated any Arizona law, Arizona Rules of Court and this code section or court orders governing private process servers.

c. Mandatory Denial. The presiding judge shall refuse to certify the applicant if the applicant does not meet the qualifications or eligibility requirements.

H Complaints, Investigation, Hearings and Disciplinary Action.

2. A certificate holder is subject to disciplinary action if the presiding judge finds one or more of the following applies to the certificate holder:

(1) Willful violation of or wilful noncompliance with a court order, any court rule, Arizona law, or this code section.

**MARICOPA COUNTY JUSTICE COURTS
COURT NAMES AND AGENCY IDENTIFIER
JANUARY 4, 2006**

These name changes are effective immediately.

<u>ID</u>	<u>Old Name</u>	<u>New Name</u>
0701	East Phoenix #1	Downtown
0702	East Phoenix #2	Arcadia Biltmore
0703	Buckeye	Estrella Mountain
0704	Chandler	San Marcos
0705	East Mesa	East Mesa
0706	Gila Bend	Ironwood
0707	Glendale	Manistee
0708	Northeast Phoenix	Dreamy Draw
0709	Northwest Phoenix	Moon Valley
0710	Peoria	Lake Pleasant
0711	Scottsdale	Mc Dowell Mountain
0712	South Phoenix	South Mountain
0713	East Tempe	University Lakes
0714	Tolleson	Agua Fria
0715	West Mesa	West Mesa
0716	West Phoenix	West McDowell
0717	Wickenburg	Hassayampa
0718	Central Phoenix	Encanto
0719	Maryvale	Maryvale
0720	South Mesa/Gilbert	San Tan
0721	North Mesa	North Mesa
0723	West Tempe	Kyrene
0724	North Valley	North Valley
0799	Justice Court Services	

FAMILY COURT JUDICIAL ASSIGNMENTS

(revised 11/14/05)

JUDGE ASSIGNMENTS

PHOENIX JUDGE ASSIGNMENTS

Calendar Assignment	Courtroom		JUDGE	Phone Number	Location	Judicial Assistant
DRJ01	CCB 703 e-court	Presiding Family Ct Judge (previously Jdg Armstrong)	DAVIS, Norman J	506-5262	CCB 7-C	PAT Schuler
DRJ02	CCB 602	(previously Judge Swann)	GARCIA, Jeanne	372-0610	CCB 6-B	JULIE Ramirez
DRJ03	CCB 603		MROZ, Rosa	372-0384	CCB 6-D	DIANE Hilty
DRJ04	CCB 1302		WILLETT, Eileen	506-3343	CCB 13-C	DENISE Wooten
DRJ06	CCB 1002		DUNCAN, Sally	506-9042	CCB-10-C	CAROL Sands
DRJ07	CCB 1102		SHELDON, Steven D	506-3944	CCB 11-D	WANDA Hill SCHERENE Murphy
DRJ09	ECB 414	(previously Judge Udall)	WILKINSON, Michael	506-3776	ECB 414	MARK Moreno
DRJ10	CCB 606		LEE, Raymond	506-3652	CCB 6-E	LISA Henderson
DRJ15	CCB 604		GRANT, Larry	506-5033	CCB 6-C	NANCY Northrop
DRJ16	CCB 601	(previously Judge Burke)	HOTHAM, Jeffrey A.	506-3963	CCB 6-A	SARAH Gutierrez
DRJ18	CCB 701		BUDOFF, Robert	506-4569	CCB 7-A	STEPHANIE Samora
DRJ23	CCB 702		BUTTRICK, John A	506-0971	CCB 7-B	BLAIR Jamison
DRJ25	CCB 605		REINSTEIN, Peter	506-6368	CCB6-F	CUNANAN, Michelle
DRJ26	OCH 309		CAMPBELL, Colin F.	506-3837	OCH 309	BASSOUS, Robert

SOUTHEAST JUDGE ASSIGNMENTS (222 East Javelina Mesa, AZ 85210)

DRJ08 SE	SE 304	(previously Judge Akers)	COHEN, Bruce	372-0686	(SE) 3-D	JIM Koeller
DRJ12 SE	SE 207	Presiding SE FC Judge (previously Jdg Rea)	DITSWORTH, John	506-8288	(SE) 2-G	SUSAN Leong
DRJ13 SE	SE 301		CONTE, Connie	506-7768	(SE) 3-A	JENNIFER Fortner
DRJ19 SE	SE 302	(previously Judge Willrich)	GENTRY-LEWIS, Jolynn	372-3091	(SE) 3-B	KRISTI Johnson
DRJ22 SE	SE 404		ANDERSON, Arthur	506-0341	(SE) 4-D	GINA Willcoxson
DRJ24 SE	SE 203		ARELLANO, Silvia	506-3649	(SE) 2-C	Lena Dupuis

NORTHWEST JUDGE ASSIGNMENTS (14264 West Tierra Buena Lane Surprise, AZ 85374) (facility opened 07-22-02)

NWJ02	NW 124		CHAVEZ, Harriett	506-4208	(NWF) D	MARY Smith
NWJ03	NW 122		HEILMAN, Joseph B	506-0292	(NWF) B	MERI Anderson
NWJ04	NW 121	Presiding NW Judge	McNALLY, Colleen A	506-5961	(NWF) A	MICHELLE Sanders

NORTHEAST JUDGE ASSIGNMENTS (18380 North 40th St. Phoenix, AZ 85032)

(facility opened 09-14-05)

DRJ11	NE 112	Presiding NE Judge (previously Jdg Steinle)	BALLINGER, Eddward	506-8551	Suite L	LINDA Gray
DRJ14	NE 108	(previously Judge Ditsworth)	REA, John	372-0382	Suite J	SALLY Hawley
DRJ17	NE 106	(previously Judge Houser)	MILES, Linda	506-6452	Suite I	PEGGY Krevitt
DRJ20	NE 107		HARRISON, Cari A	506-0967	Suite D	SANDRA Frimodig
DRJ21	NE 102	(previously Judge Mahoney)	MARTIN, Gregory	506-3441	Suite G	ANN Kaites

COMMISSIONER ASSIGNMENTS

PHOENIX COMMISSIONER ASSIGNMENTS

DRC01	CCB 505	Presiding FC Commissioner	PASSAMONTE, Carolyn K	506-0862	CCB 5-F	IRENE Hendricks-Jones
DRC03	CCB 503		ARROW, David	372-3021	CCB 5-D	ANDERSON, Lance
DRC06	CCB 506		COLOSI, Robert A	506-3366	CCB 5-E	KRISTA Foster
DRC09	CCB 507		BASSETT, Ed	506-1190	CCB 5-G	DENISE Lawler
FCO01	CCB 301		PARKS, Eve	506-4067	CCB 3-A	LYDIA Hernandez
FCO02	CCB 301		HARRIS, Myra	506-4067	CCB 3-A	LYDIA Hernandez

NORTHEAST COMMISSIONER ASSIGNMENTS

NEC01	NE 101		BRNOVICH, Susan	506-7822	Suite A	MICA Inman
NEC02	NE 103		KUPISZEWSKI, Stephen		Suite C	SONDRA Aceto

SOUTHEAST COMMISSIONER ASSIGNMENTS

SEC01	SE 305		HEGYI, HUGH	506-4203	(SE) 3-E	LEEANNE Swanson
SEC02	SE 303		MC COY, Scott	506-3915	(SE) 3-C	REBECCA Cox

NORTHWEST COMMISSIONER ASSIGNMENTS

NWC01	NW 123		NEWCOMB, Casey	506-3809	(NWF) C	ERIN Kelly
FAMILY COURT JA TRAINER				372-0296		RICKY McKaig

(If you find any errors, please notify Vickie Fugate, Family Court Administration 506-7201)

RULES OF FAMILY LAW PROCEDURE

2005-2006

IV. SERVICE OF PROCESS

Rule 40. Process

Effective January 1, 2006

A. Summons; Issuance. When the petition or any other pleading which requires service of a summons is filed, the clerk shall endorse thereon the day and hour on which it was filed and the number of the action, and shall forthwith issue a summons. The party filing the pleading may present a summons to the clerk for signature and seal. If in proper form, the clerk shall sign and seal the summons and issue it to the party for service or for delivery to a person authorized to serve it under paragraph C. A summons, or a copy of the summons if addressed to multiple persons, shall be issued for each person to be served.

B. Summons; Form; Replacement Summons. The summons shall be signed by the clerk, be under the seal of the court, contain the name of the court and the names of the parties, be directed to the person to be served, state the name and address of the attorney, if any, for the party on whose behalf service is being made, and otherwise that party's address. The summons shall state the time within which these rules require the person being served to appear and defend, and shall notify that person that in case of a failure to do so judgment by default will be rendered against that person for the relief demanded in the pleading served. In an action for annulment, dissolution of marriage, or legal separation, the summons shall also contain a statement that either spouse, or both spouses, may file in the conciliation court a petition invoking the jurisdiction of the court for the purpose of preserving the marriage by effecting conciliation between the parties. A summons, or a copy of the summons in the case of multiple persons to be served, shall be served together with a copy of the pleading to be served. If a summons is returned without being served, or if it has been lost, the clerk may upon request issue a replacement summons in the same form as the original. A replacement summons shall be issued and served within the time prescribed by paragraph I of this rule. The summons

shall state that "requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least three (3) working days in advance of a scheduled court proceeding."

C. Process; By Whom Served. Service of process shall be by a sheriff, a sheriff's deputy, a private process server registered with the clerk of the court pursuant to paragraph D, or any other person specially appointed by the court, except that a subpoena may be served as provided in Rule 52. Service of process may also be made by a party or that party's attorney where expressly authorized by these rules. A private process server or specially appointed person shall be not less than 21 years of age and shall not be a party, an attorney, or the employee of an attorney in the action whose process is being served. Special appointments to serve process shall be requested by motion to the presiding judge, and the court's ruling shall be recorded by minute entry. Special appointments shall be granted freely, are valid only for the cause specified in the motion, and do not constitute an appointment as a registered private process server.

D. State-wide Registration of Private Process Servers. A person who files with the clerk of the court an application approved by the Supreme Court, stating that the applicant has been a bona fide resident of the State of Arizona for at least one year immediately preceding the application and that the applicant will well and faithfully serve process in accordance with the law, and who otherwise complies with the procedures set forth by the Supreme Court in its Administrative Order regarding this subsection, shall, upon approval of the court or presiding judge thereof, in the county where the application is filed, be registered with the clerk as a private process server until such approval is withdrawn by the court in its discretion. The clerk shall maintain a register for this purpose. Such private process server shall be entitled to serve in such capacity for any court of the state anywhere within the State.

E. Service of Summons in Title IV-D Cases. Following registration in compliance with paragraph D, a Field Locate Investigator employed by the Department of Economic Security's Office of Special Investigations may complete service in the manner set forth in Rule 41(C) in any action initiated by the State for the determination of paternity or the establishment, modification, or enforcement of an order of support.

F. Service; Acceptance or Waiver; Voluntary Appearance. The person to whom a summons or other process is directed may accept service, or waive issuance or service thereof in writing, dated and signed by that person, and subscribed and sworn to (or affirmed to) before a notary public, and the acceptance or waiver shall be filed with the clerk. Instead of notarization, the person may sign the acceptance or waiver in the presence of the clerk after verification of the person's identity by the clerk. If the person is represented by counsel, counsel may sign the acceptance or waiver. A person upon whom service is required may, in person or by attorney or by an authorized agent, enter an appearance in open court, and the appearance shall be noted by the clerk upon the docket and entered in the minutes. Such waiver, acceptance or appearance shall have the same force and effect as if a summons had been issued and served. The filing of a pleading responsive to a pleading allowed under Rule 24 shall constitute an appearance.

G. Return of Service. If service is not accepted or waived, then the person effecting service shall make proof thereof to the court. When the process is served by a sheriff or a sheriff's deputy, the return shall be officially endorsed on or attached thereto and returned to the court promptly. If served by a person other than the sheriff or a deputy sheriff, return and proof of service shall be made promptly by affidavit thereof. Each such affidavit of a registered private process server shall include clear reference to the county where that private process server is registered. When the summons is served by publication, the return of the person making such service shall be made in the manner specified in Rules 41 and 42. Proof of service in a place not within any judicial district of the United States shall, if effected under Rule 42(F)(1), be made pursuant to the applicable treaty or convention. If effected under Rule 42(F)(2) or (F)(3), proof of service shall include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court. In

any event, the return shall be made within the time during which the person served must respond to process. Failure to make proof of service does not affect the validity thereof.

H. Amendment of Process or Amendment of Proof of Service. At any time, in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

I. Summons; Time Limit for Service. If service of the summons and petition is not made upon a respondent within one hundred twenty (120) days after the filing of the petition, the court, upon motion or on its own initiative after notice to the petitioner, shall dismiss the action without prejudice as to that respondent or direct that service be effected within a specified time; provided that if the petitioner shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision does not apply to service in a foreign country pursuant to Rules 42(F), (G), (H) and (I).

Added Oct. 19, 2005, effective Jan. 1, 2006.

Rule 41. Service of Process within Arizona

Effective January 1, 2006

A. Territorial Limits of Effective Service. All process may be served anywhere within the territorial limits of the state.

B. Summons; Service with Petition. The summons, pleading and other documents being served shall be served together. The party procuring service is responsible for service of a summons, the pleading and other documents being served within the time allowed under Rule 40(I) and shall furnish the person effecting service with the necessary copies of the pleading to be served.

C. Service of Summons upon Individuals.

1. **Personal Service.** Service upon an individual from whom a waiver has not been obtained and filed, other than those specified in paragraphs D, E, and F, shall be effected by delivering a copy of the summons, pleading and other documents being served to that individual personally or by leaving copies thereof at that individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons, pleading and other documents be-

ing served to an agent authorized by appointment or by law to receive service of process, except as otherwise provided in subdivision C(2) of this rule.

2. *Service by Mail or National Courier Service; Return.* When the location of a party is within the state, service may be made by depositing, with delivery charges prepaid, the summons and a copy of the pleading and other documents being served with the United States Postal Service or any other national courier service that provides delivery and signature confirmation or certified mail, signed return receipt, to be sent to the person to be served. Service under this rule and the return or confirmation of service may be made by the party procuring service or by that party's attorney. Service in this manner is only effective if the return receipt or signature confirmation is signed by the party to be served. Upon receiving from the U.S. Postal Service or other national courier service the signed return receipt, or a copy of the signature confirmation and cash register receipt or package label of the person being served, the serving party shall file an affidavit with the court stating:

- a. that the summons and a copy of the pleading and other document being served were dispatched to the party being served;
- b. that such papers were in fact received by the party as evidenced by the receipt, or copy of the signature confirmation containing the signature of the party served and cash register receipt or package label, a copy of which shall be attached to the affidavit; and
- c. the date of receipt by the party being served and the date of the return of the receipt or signature confirmation to the sender.

This affidavit shall be *prima facie* evidence of personal service of the summons, the pleading and other documents to be served. Service shall be deemed complete and time shall begin to run for the purposes of paragraph J of this rule from the date of receipt by the party being served, provided that no default may be had on such service until the required affidavit has been filed.

D. Service of Summons upon Minors. Service upon a minor under the age of sixteen years shall be effected by service in the manner set forth in paragraph C of this rule upon the minor and upon the minor's father, mother or guardian, within this state, or if none is found therein, then upon any

person having the care and control of such minor, or with whom the minor resides.

E. Service of Summons upon a Minor with Guardian or Conservator. Service upon a minor for whom a guardian or conservator has been appointed in this state shall be effected by service in the manner set forth in paragraph C of this rule upon such guardian or conservator and minor.

F. Service of Summons upon Incompetent Persons. Service upon a person who has been judicially declared to be insane, gravely disabled, incapacitated or mentally incompetent to manage that person's property and for whom a guardian or conservator has been appointed in this state shall be effected by service in the manner set forth in paragraph C of this rule upon such person and also upon that person's guardian or conservator, or if no guardian or conservator has been appointed, upon such person as the court designates.

G. Service of Summons upon the State. Service upon the state shall be effected by acceptance or waiver of service, or by delivering a copy of the summons and of the pleading to the attorney general.

H. Service of Summons upon a County, Municipal Corporation or Other Governmental Subdivision. Service upon a county or a municipal corporation or other governmental subdivision of the state subject to suit, and from which a waiver has not been obtained and filed, shall be effected by delivering a copy of the summons and of the pleading to the chief executive officer, the secretary, clerk, or recording officer thereof.

I. Service of Summons upon Other Governmental Entities. Service upon any governmental entity not listed above shall be effected by serving the person, officer, group or body responsible for the administration of that entity or by serving the appropriate legal officer, if any, representing the entity. Service upon any person who is a member of the "group" or "body" responsible for the administration of the entity shall be sufficient.

J. Service of Summons upon Corporations, Partnerships or Other Unincorporated Associations. Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit in a common name, and from which a waiver has not been obtained and filed, shall be effected by delivering a copy of the summons and of the pleading to a partner, an officer, a managing or general agent, or to any other agent authorized by appointment or by

law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the party on whose behalf the agent accepted or received service.

K. Service of Summons Upon a Domestic Corporation If Authorized Officer or Agent Not Found Within the State. When a domestic corporation does not have an officer or agent in this state upon which legal service of process can be made, service upon such domestic corporation shall be effected by depositing two (2) copies of the summons and of the pleading being served in the office of the Corporation Commission, which shall be deemed personal service on such corporation. The return of the sheriff of the county in which the action or proceeding is brought that after diligent search or inquiry the sheriff has been unable to find any officer or agent of such corporation upon whom process may be served, shall be *prima facie* evidence that the corporation does not have such an officer or agent in this state. The Corporation Commission shall file one of the copies in its office and immediately mail the other copy, postage prepaid, to the office of the corporation, or to the president, secretary or any director or officer of such corporation as appears or is ascertained by the Corporation Commission from the articles of incorporation or other papers on file in its office, or otherwise.

L. Alternative or Substituted Service. If service by one of the means set forth in the preceding paragraphs of this rule proves impracticable, then service may be accomplished in such manner, other than by publication, as the court, upon motion and without notice, may direct. Whenever the court allows an alternative or substitute form of service pursuant to this subpart, reasonable efforts shall be undertaken by the party making service to assure that actual notice of the commencement of the action is provided to the person to be served and, in any event, the summons and the pleading to be served, as well as any order of the court authorizing an alternative method of service, shall be mailed to the last known business or residence address of the person to be served. Service by publication may be employed only under the circumstances, and in accordance with the procedures, specified in paragraph M of this rule and Rule 42(D).

M. Service by Publication; Return. Service by publication is not sufficient to confer jurisdiction upon the court to determine issues of paternity,

child support, spousal maintenance, division of marital property, or any other issue requiring personal jurisdiction over a party. In actions involving dissolution of a marriage, custody, or any other issue not requiring personal jurisdiction over a party, and where the person to be served is one whose residence is unknown to the party seeking service but whose last known residence address was within the state, or has avoided service of process, and service by publication is the best means practicable under the circumstances for providing notice of the institution of the action, then service may be made by publication in accordance with the requirements of this subpart. Such service shall be made by publication of the summons, and of a statement as to the manner in which a copy of the pleading being served may be obtained, at least once a week for four successive weeks (1) in a newspaper published in the county where the action is pending, and (2) in a newspaper published in the county of the last known residence of the person to be served, if different from the county where the action is pending. If no newspaper is published in any such county, then the required publications shall be made in a newspaper published in an adjoining county. The service shall be complete thirty days after the first publication. When the residence of the person to be served is known, the party or officer making service shall also, on or before the date of the first publication, mail the summons and a copy of the pleading and other documents being served, postage prepaid, to that person at that person's place of residence. Service by publication and the return thereof may be made by the party procuring service or that party's attorney in the same manner as though made by an officer. The party or officer making service shall file an affidavit showing the manner and dates of the publication and mailing, and the circumstances warranting the utilization of the procedure authorized by this subpart, which shall be *prima facie* evidence of compliance herewith. A printed copy of the publication shall accompany the affidavit. If the residence of the party being served is unknown, and for that reason no mailing was made, the affidavit shall so state.
Added Oct. 19, 2005, effective Jan. 1, 2006.

Rule 42. Service of Process Outside of State

Effective January 1, 2006

A. Extraterritorial Jurisdiction; Personal Service Out of State. A court of this state may exer-

cise personal jurisdiction over parties, whether found within or outside the state, to the maximum extent permitted by the constitution of this state and the Constitution of the United States. Service upon any such party located outside the state may be made as provided in this rule and when so made shall be of the same effect as personal service within the state.

B. Direct Service. Service of process may be made outside the state but within the United States in the same manner provided in Rule 41(C) through (K) by a person authorized to serve process under the law of the state where such service is made. Such service shall be complete when made, and time for purposes of paragraph J of this rule shall begin to run at that time, provided that before any default may be had on such service, there shall be filed an affidavit of service showing the circumstances warranting the utilization of this procedure and attaching an affidavit of the process server showing the fact and circumstances of the service.

C. Service by Mail or National Courier Service; Return. When the location of a party outside the state is known, service may be made by depositing, with delivery charges prepaid, the summons and a copy of the pleading and other documents being served with the United States Postal Service or any other national courier service that provides delivery and signature confirmation or certified mail, signed return receipt, to be sent to the person to be served. Service under this rule and the return or confirmation of service may be made by the party procuring service or by that party's attorney. Service in this manner is only effective if the return receipt or signature confirmation is signed by the party to be served. Upon receiving from the U.S. Postal Service or other national courier service the signed return receipt, or a copy of the signature confirmation and cash register receipt or package label of the person being served, the serving party shall file an affidavit with the court stating:

1. that the party being served is known to be located outside the state;
2. that the summons and a copy of the pleading and other document being served were dispatched to the party being served;
3. that such papers were in fact received by the party as evidenced by the receipt or copy of the signature confirmation and cash register receipt or package label, a copy of which shall be attached to the affidavit; and

4. the date of receipt by the party being served and the date of the return of the receipt or signature confirmation to the sender.

This affidavit shall be *prima facie* evidence of personal service of the summons, the pleading and other documents to be served. Service shall be deemed complete and time shall begin to run for the purposes of paragraph J of this rule from the date of receipt by the party being served, provided that no default may be had on such service until the required affidavit has been filed.

D. Service by Publication; Return. Service by publication is not sufficient to confer jurisdiction upon the court to determine issues of paternity, child support, spousal maintenance, division of marital property, or any other issue requiring personal jurisdiction over a party. In actions involving dissolution of a marriage, custody or any other issue not requiring personal jurisdiction over a party, and where the person to be served is one whose present residence is unknown but whose last known residence was outside the state or has avoided service of process, and service by publication is the best means practicable under the circumstances for providing notice of institution of the action, then service may be made by publication in accordance with the requirements of this subpart. Such service shall be made by publication of the summons and of a statement as to the manner in which a copy of the pleading and other documents being served may be obtained at least once per week for four successive weeks in a newspaper published in the county where the action is pending. If no newspaper is published in any such county, then the required publications shall be made in a newspaper published in an adjoining county. The service shall be complete thirty days after the first publication. When the residence of the person to be served is known, the party or officer making service shall also, on or before the date of the first publication, mail the summons, a copy of the pleading and other documents being served, postage prepaid, directed to that person at that person's place of residence.

Service by publication and the return thereof may be made by the party procuring service or that party's attorney in the same manner as though made by an officer. The party or officer making service shall file an affidavit showing the manner and dates of publication and mailing and the circumstances warranting utilization of the procedure authorized by this subpart, which shall be *prima facie* evidence of compliance herewith. A printed

copy of the publication shall accompany the affidavit. If the residence of the person to be served is unknown, and for that reason no mailing was made, the affidavit shall so state.

E. Service of Summons Upon Corporations, Partnerships or Unincorporated Associations Located Outside Arizona but Within the United States. Where the corporation or partnership or unincorporated association to be served is located outside the state but within the United States, service under this rule shall be made on one of the persons specified in Rule 41(J).

F. Service upon Individuals in a Foreign Country. Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than a minor or an incompetent person, may be effected in a place not within any judicial district of the United States:

1. by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or

2. if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

- a. in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

- b. as directed by the foreign authority in response to a letter rogatory or letter of request; or

- c. unless prohibited by the law of the foreign country, by

- 1) delivery to the party to be served personally of a copy of the summons and of the pleading; or

- 2) any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

- 3) by other means not prohibited by international agreement, as may be directed by the court.

G. Service of Summons Upon Minors and Incompetent Persons in a Foreign Country. Service upon a minor, a minor with a guardian or an

incompetent person in a place not within any judicial district of the United States shall be effected in the manner prescribed by subdivision (2)(a) or (2)(b) of paragraph F of this rule, or by such means as the court may direct.

H. Service of Summons Upon Corporation and Associations in a Foreign Country. Unless otherwise provided by federal law, service upon a corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, and from which a waiver of service has not been obtained and filed, shall be effected in a place not within any judicial district of the United States in any manner prescribed for individuals by paragraph F of this rule except personal delivery as provided in subdivision (2)(c)(1) thereof.

I. Service of Summons upon a Foreign State or Political Subdivision Thereof. Service of a summons upon a foreign state or a political subdivision, agency, or instrumentality thereof shall be effected pursuant to 28 U.S.C. § 1608.

J. Time for Appearance after Service Outside State. Where service of the summons and copy of a pleading and other documents required to be served is made outside the state by any means authorized by this rule, the person served shall appear and answer within thirty (30) days after completion thereof in the same manner and under the same penalties as if that person had been personally served with a summons within the country in which the action is pending.

Added Oct. 19, 2005, effective Jan. 1, 2006.

Rule 43. Service and Filing of Pleadings and Other Papers; Sensitive Data Form

Effective January 1, 2006

A. Service: When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original petition, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard *ex parte*, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in

the manner provided for service of summons in Rules 40, 41, and 42, as applicable.

B. Service; Parties Served; Continuance.

When there are several respondents, and some are served with summons and others are not, the petitioner may proceed against those served or continue the action. The court may order the petitioner to proceed against those served.

C. Service after Appearance; Service after Judgment; How Made.

1. Whenever service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party is ordered by the court, except for petitions for contempt, orders of protection and injunctions against harassment, which must be served pursuant to Rules 41 and 42. Service upon the attorney or upon a party shall be made by delivering a copy to the attorney or party or by mailing it to the attorney or party at the attorney's or party's last known address, or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at the attorney's or party's office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling-house or usual place of abode with some person of suitable age and discretion then residing therein; or by facsimile to a facsimile number provided by the attorney or party and by retaining a receipt documenting the date and time of the facsimile transmission. The date and manner of service shall be noted on the original of the paper served or in a separate certificate filed with the court. If the precise manner in which service has actually been made is not so noted, it will be conclusively presumed that the filing was served by mail, and the provisions of Rule 4(D) shall apply. This conclusive presumption shall only apply if service in some form has actually been made. Service by mail is complete upon mailing.

2. After the time for appeal from a judgment has expired or a judgment has become final after appeal, the service of a motion, petition, or other pleading required to be served and requests for modification, vacation, or enforcement of that judgment shall be served pursuant to Rules 40,

41 and 42, as applicable, as if serving a summons and petition.

D. Filing; Attachments; Public Access.

1. *Filing.* All papers after the petition required to be served upon a party or to be filed with the court within a specified time shall be both filed with the clerk of the court and served within that specified time.

2. *Papers Not to Be Filed.* The following papers shall not be filed separately and may be filed as attachments or exhibits to other documents only when relevant to the determination of an issue before the court:

a. *Subpoena Papers.* Any *praecipe* used solely for issuance of a subpoena or subpoena *duces tecum*, any subpoena or subpoena *duces tecum*, and any affidavit of service of a subpoena, except for post-judgment proceedings;

b. *Discovery Papers.* Notices of deposition; depositions, interrogatories and answers; requests for production, inspection or admission, and responses; requests for physical and mental examination; and notices of service of any discovery or discovery response;

c. *Proposed Pleadings.* Any proposed pleading, except such pleading may be filed after ruling by the court if necessary to preserve the record on appeal;

d. *Prior Filings.* Any paper that has previously been filed in the case (if a party desires to call the court's attention to anything contained in a previously filed paper, the party shall do so by incorporation by reference); and

e. *Authorities Cited In Memoranda.* Copies of authorities cited in memoranda, unless necessary to preserve the record on appeal.

3. *Attachments to Judge.* Except for proposed orders and proposed judgments, a party may attach copies of papers not otherwise to be filed under this rule to a copy of a motion or memorandum of points and authorities delivered to the judge to whom the case has been assigned. Any such papers provided to the judge must also be provided to all other parties.

4. *Sanctions.* For violation of this rule, the court may order the removal of the offending document and charge the offending party or counsel such costs or fees as may be necessary to cover the clerk's costs of filing, preservation, or storage, and the court may impose any additional sanctions provided in Rule 76(D).

5. *Public Access.* By administrative order of the presiding judge or local rule, upon commencement of an action, the filing of a pleading pursuant to Rule 24 or the filing of a Petition for an Order of Protection or a Petition for Injunction Against Harassment, all court documents, records and evidence related thereto shall be unavailable to the general public until the affidavit of service thereof is filed, or forty-five (45) days have passed since the filing of the petition with the court, whichever occurs first. The foregoing notwithstanding, judicial officers, court and clerk's office personnel, case parties and their associated attorneys of record, and any other persons as ordered by the court may have access to the documents in a manner determined by the clerk of court at any time.

E. Filing with the Court Defined. The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with the judge and, in that event, the judge shall note thereon the filing date and forthwith transmit them to the clerk of the court.

F. Proposed Orders and Judgments. Except as otherwise specifically provided for in these rules, a proposed order or proposed decree shall be prepared as a separate document and shall not be included as an integral part of a motion, stipulation, or other document. The proposed order or proposed decree shall be prepared in accordance with this paragraph and Rule 30(D), and shall contain the following information as single-spaced text on the first page of the document:

1. to the left of the center of the page starting at line one, the filing party's printed name, address, telephone number, State Bar of Arizona attorney identification number, and any State Bar of Arizona law firm identification number, along with an identification of the party being represented by the attorney, e.g., petitioner, respondent, third party petitioner, etc. (note: if the document is being presented by a litigant representing himself or herself, all of this information shall be included except the State Bar of Arizona identification numbers);

2. centered on or below line six (6) of the page, the printed title of the court;

3. below the title of the court and to the left of the center of the paper, the printed title of the action or proceeding;

- d. The provisions of subdivision 1(a) shall not pertain to orders or decrees, or to petitions and accompanying documents filed pursuant to the Uniform Interstate Family Support Act (UIFSA) as adopted by the state of Arizona.

- e. If a document containing sensitive information is filed with a court, any party may request that the court order that the document be sealed or removed from the file.

4. opposite the title, in the space to the right of the center of the page, the printed case number of the action or proceeding; and

5. immediately below the case number, a brief printed description of the nature of the document.

There shall be at least two (2) lines of text on the signature page. Any proposed form of order or proposed form of judgment shall be served upon all parties and counsel simultaneous with its submission to the court for consideration. Proposed orders and proposed judgments shall not be filed or docketed by the clerk of the court until after judicial review and decision to sign, modify or reject. A party may file an unsigned order or judgment to preserve the record on appeal.

G. Sensitive Data.

1. *Filing Sensitive Data.*

- a. Before filing any paper containing sensitive data with the court, the filing party shall omit or otherwise redact the sensitive data unless they are specifically requested by the court. If the sensitive data are specifically requested by the court, the filer shall record the requested information on a separate sensitive data form which shall be maintained by the clerk as a confidential record. In the discretion of the clerk, sensitive data forms and orders of assignment may be maintained either in paper or electronic format. If these documents are maintained electronically, the clerk is authorized to destroy the paper version. Unless the court orders otherwise, any further written reference to sensitive data shall thereafter be made by referring to a corresponding item number on the sensitive data form or other means, rather than inserting the actual data into the document being filed with the court.

- b. Whenever new information is needed to supplement the record in a case, the parties shall file an updated sensitive data form, reflecting all previously disclosed sensitive data plus any additional sensitive data required to be filed in the case.

- c. Orders of Assignment shall contain any sensitive data required by law, but shall be closed and only available to the parties, the parties' employers, child support enforcement agencies, court personnel, and any other person or agency authorized by court order.

2. *Sensitive Data Defined.* For purposes of this rule, "sensitive data" means social security numbers, bank account numbers, credit card numbers, and other financial account numbers.

3. *Sensitive Data Form.* The Sensitive Data Form, provided in Rule 97, Form 3, or a substantially similar form, shall be used.

Added Oct. 19, 2005, effective Jan. 1, 2006.